

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE**

TRUSTEES OF IBEW LOCAL NO. 490 PENSION FUND,	)	
TRUSTEES OF IBEW LOCAL NO. 490 ANNUITY FUND,	)	
TRUSTEES OF IBEW LOCAL NO. 490 APPRENTICESHIP &	)	
TRAINING FUND, TRUSTEES OF IBEW LOCAL NO. 490	)	
LABOR MANAGEMENT COOPERATION FUND, NATIONAL	)	
ELECTRICAL BENEFIT FUND, and IBEW LOCAL UNION	)	
NO. 490,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	C.A. No.
	)	
TANSEY ELECTRIC, INC. and ALBERT H. TANSEY,	)	
	)	
Defendants.	)	
	)	

**COMPLAINT**

1. This is an action under the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. §§1132 & 1145, and Section 301 of the Labor Management Relations Act of 1947 (hereinafter “LMRA”), 29 U.S.C. § 185, to compel Tansey Electric, Inc. and Albert H. Tansey, individually (collectively the “Defendants”), to make contributions and other payments owed to Plaintiffs.

2. Jurisdiction is conferred by 29 U.S.C. §§1132(e)(1) & (f) and 29 U.S.C. §§185(a), (b) & (c).

3. Venue lies in this district pursuant to 29 U.S.C. §§1132(e)(2) and U.S.C. § 185(c).

4. The IBEW Local No. 490 Pension Fund, the IBEW Local No. 490 Annuity Fund, the Local No. 490 Apprenticeship & Training Fund, the Local No. 490 Labor Management Cooperation Fund and the National Electrical Benefit Fund (collectively the “Plaintiffs,” “Funds,” or “Trustees”), are trusts established in accordance with 29 U.S.C. §186(c), are employee pension benefit plans,

employee welfare benefit plans, and a labor management fund, as defined by 29 U.S.C. §1002(1) & (2) and 29 U.S.C. §186(c)(9), and are governed by the plaintiff Trustees, each of whom is a fiduciary to the plans as defined by 29 U.S.C. §1002(21).

5. Plaintiff IBEW Local Union No. 490 (the “Union”) is a labor organization with its principal place of business in Concord, New Hampshire.

6. Each of the Funds is a fund that is maintained pursuant to a collective bargaining agreement between the Union and more than one employer and is a fund to which more than one employer is required to contribute for all covered work performed by employees working within the territories defined by the agreement.

7. Defendant Tansey Electric, Inc. (the “Employer”) is a corporation incorporated and existing under the laws of the State of New Hampshire and having a place of business in Manchester, New Hampshire.

8. Defendant Albert H. Tansey is a resident of Manchester, New Hampshire and is president and the sole director of the Employer.

9. The Employer is engaged in an industry affecting commerce as defined in ERISA, 29 U.S.C. §§ 1002(5), (11) & (12), and as defined in LMRA, 29 U.S.C. §§ 152(2), (6) & (7).

10. The Employer is and has been a party to a collective bargaining agreement (the “Agreement”) with the Union at all times material herein.

11. The Employer has failed to make contributions and remit employee payroll withholdings to the Plaintiffs for work performed by its employees as required by the Agreement.

12. The Employer has failed to submit to Plaintiffs monthly reports of the number of hours worked by each employee as required by the Agreement.

13. The Agreement, the trust agreements governing the Funds, and ERISA further provide that in the event the Employer fails to make its required contributions in a timely fashion, the Employer is obligated to the Funds, in addition to the principal amounts owed, for interest from the date when the payment was due, liquidated damages, and for all costs and reasonable attorney's fees expended by the Plaintiffs in any action collecting the delinquent contributions.

14. The Employer and the Funds have entered into a settlement agreement pursuant to which the Employer acknowledged its delinquency for a specified period of time, agreed to a payment schedule, and agreed, among other things that, in the event of a default in the payment schedule, it waived any defenses in an action under ERISA and/or the settlement agreement and would stipulate to a judgment in such an action.

15. In the same document, Albert Tansey individually agreed to personally guarantee the Employer's obligations under the settlement agreement and to consent to the entry of judgment imposing joint and several liability with the Employer in any action the Funds may file.

16. The Employer failed to make payments or submit monthly reports of hours as required pursuant to the settlement agreement.

WHEREFORE, the Plaintiffs demand judgment against the Defendants as follows:

A. That the Defendants Tansey Electric, Inc. and Albert H. Tansey, jointly and severally, be ordered to submit the delinquent monthly reports of hours and pay the Plaintiffs the delinquent contributions due the Plaintiffs plus prejudgment interest from the date when each month's payment was due and liquidated damages of 20% pursuant to 29 U.S.C. §1132(g)(2) and the terms of the settlement agreement;

B. That the Defendant Tansey Electric, Inc. be ordered to make all future payments to Plaintiffs and submit monthly reports of hours in a timely manner in accordance with its collective bargaining agreement;

C. That the Defendants Tansey Electric, Inc. and Albert H. Tansey, jointly and severally, be ordered to pay to the Plaintiffs' costs and disbursements, including its reasonable attorney's fees in this action, pursuant to 29 U.S.C. § 1132(g)(2) and the terms of the settlement agreement; and

D. That the Plaintiffs receive such other legal or equitable relief as this Court deems just and proper.

Respectfully submitted,  
TRUSTEES OF IBEW LOCAL NO. 490 PENSION  
FUND,  
TRUSTEES OF IBEW LOCAL NO. 490 ANNUITY  
FUND,  
TRUSTEES OF IBEW LOCAL NO. 490  
APPRENTICESHIP &  
TRAINING FUND, TRUSTEES OF IBEW LOCAL NO.  
490  
LABOR MANAGEMENT COOPERATION FUND,  
NATIONAL ELECTRICAL BENEFIT FUND, and  
IBEW LOCAL UNION NO. 490

By their attorneys,  
HAGE HODES, P.A.

Date: April 12, 2019

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Date: April 12, 2019

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